

REMARKS/ARGUMENTS

In response to Restriction Requirement mailed June 29, 2005, Applicants elect with traverse the Group II, claims 10-28 and 47, directed to antibodies. In addition, Applicants elect with traverse the species SEQ ID NO:5.

The foregoing election is made with traverse. Applicants request that Groups III and IV, directed to methods of making or using the antibodies, be examined together, as the methods use the same proteins, *i.e.*, antibodies generated against specific IgE peptides. Applicants also traverse the requirement of a species election between SEQ ID NOs:1-6, which are all peptides derived from equine IgE protein. As SEQ ID NOs:1-6 are derived from the same protein, search of the group would not be undue.

Applicants also remind the Examiner that, at the very least, claims 10, 17-22, and 47 are genus claims linking the IgE peptides, *i.e.*, SEQ ID NO's:1-6. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Groups II, III, and IV together (IgE antibodies and methods of making and using them) would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Groups II, III and IV be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

  
Beth L. Kelly  
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
Attachments  
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